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7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**

9 COMMODITY FUTURES TRADING  
10 COMMISSION,

11 Plaintiff,  
12 v.  
13 DAVID GILBERT SAFFRON  
14 a/k/a DAVID GILBERT and  
CIRCLE SOCIETY, CORP.,

15 Defendants.

16 Case No. 2:19-cv-1697-JAD-DJA

17 **DECLARATION OF DANIELLE E.**  
**KARST IN SUPPORT OF APPLICATION**  
**FOR ENTRY OF DEFAULT AGAINST**  
**DEFENDANT CIRCLE SOCIETY, CORP.**

18 I, Danielle E. Karst, pursuant to 28 U.S.C. § 1746 (2012) hereby declare as follows:

19 1. I am counsel for Plaintiff, Commodity Futures Trading Commission (“Plaintiff”  
20 or “CFTC”) in this action and have personal knowledge of the facts stated herein. I submit this  
Declaration in support of Plaintiff’s Application for Entry of Default against Defendant Circle  
Society, Corp (“Circle Society”).

21 2. On September 30, 2019, Plaintiff, filed a Complaint for Injunctive Relief,  
22 Restitution, Disgorgement and Civil Monetary Penalties (“Complaint,” ECF No. 1) against  
23 David Gilbert Saffron a/k/a David Gilbert (“Saffron”) and his business entity, Circle Society  
24 (collectively, “Defendants”), for violations of the Commodity Exchange Act, 7 U.S.C. §§ 1-27f  
25 (2012), and Commission Regulations promulgated thereunder, 17 C.F.R. pts. 1–190 (2019) (ECF  
26

1 No. 1).

2       3. Defendant Circle Society is a Nevada corporation, and the Nevada Secretary of  
 3 State's Articles of Incorporation for Circle Society list P. Sterling Kerr ("Kerr") as the active  
 4 Registered Agent of Circle Society. *See* Certified Nevada Secretary of State business records for  
 5 Circle Society and Nevada Secretary of State online listing for Circle Society dated October 9,  
 6 2019 (Affidavit of Service, Exhibit 1, ECF No. 14).

7       4. Counsel for Circle Society's Registered Agent Kerr confirmed to the undersigned  
 8 in an email dated October 4, 2019, that "Mr. Kerr will accept electronic service by email at the  
 9 following address: [sterling@sterlingkerrlaw.com](mailto:sterling@sterlingkerrlaw.com) ."<sup>1</sup>

10      5. Accordingly, I served Circle Society on October 7, 2019, with the following  
 11 documents via electronic mail to Circle Society's Registered Agent Kerr  
 12 ([sterling@sterlingkerrlaw.com](mailto:sterling@sterlingkerrlaw.com)): (1) Complaint (ECF No. 1); (2) Civil Cover Sheet; (3) Signed  
 13 Summons (ECF Nos. 4, 10); (4) Motion to Permit Appearance of Government Attorneys (ECF  
 14 No. 3); (5) Motion and Memorandum to Seal and Proposed Order (ECF No. 2); (6) Motion and  
 15 Memorandum for *Ex Parte* Statutory Restraining Order and Proposed Order (ECF No. 5); (7)  
 16 Declaration of CFTC George Malas with Exhibits (ECF Nos. 5-1, 6-1); (8) Motion and  
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 20     <sup>1</sup> Subsequently, Mr. Kerr's counsel stated that Mr. Kerr had resigned as Registered Agent of  
 21 Circle Society and provided a copy of Mr. Kerr's Resignation of Registered Agent Form to  
 22 the CFTC. This Resignation of Registered Agent Form is undated and does not contain any  
 23 stamp or other proof of filing from the Nevada Secretary of State's Office. Mr. Kerr's  
 24 counsel stated that, "according to his [Kerr's] staff, this [Kerr's resignation] was sent on  
 25 8/20/19." Nevada Revised Statute 77.370 governing resignation of a registered agent  
 26 provides in relevant part: "A statement of resignation takes effect on the earlier of the 31st  
 27 day after the day on which it is filed or the appointment of a new registered agent for the  
 represented entity." The Nevada Secretary of State's records do not show that Mr. Kerr's  
 resignation has actually been *filed*, irrespective of the date Mr. Kerr's staff "sent" the  
 resignation. Although the CFTC requested additional documentation of Mr. Kerr's  
 resignation from Mr. Kerr's counsel, the CFTC has not received any such documentation as of  
 the date of this filing.

1 Memorandum for Preliminary Injunction and Proposed Order (ECF No. 6); and (9) Sealed Court  
2 Order re Motions for Pretrial Equitable Relief and Related Matters (ECF No. 9).

3 6. In addition to my service on Registered Agent Kerr via electronic mail, on  
4 October 8, 2019, CFTC paralegal Hillary Van Tassel served the same above-listed documents on  
5 Circle Society via United Parcel Service (“UPS”) overnight delivery to Circle Society’s  
6 Registered Agent Kerr at 2450 St. Rose Parkway, Suite 120, Henderson, Nevada 89074. *See*  
7 Proof of Service on Circle Society and UPS delivery confirmation (Affidavit of Service, Exhibits  
8 2-3, ECF No. 14).

9 7. Federal Rule of Civil Procedure 12(a)(1)(A)(i) requires a defendant to answer or  
10 move against a complaint within 21 days of service. Fed. R. Civ. P. 12(a)(1)(A)(i).

11 8. As Defendant Circle Society in the action was served with the Summons and  
12 Complaint on October 7, 2019 (see ECF No. 14), the Defendant’s 21-day period to answer or  
13 move against the Complaint expired on October 28, 2019. Fed. R. Civ. P. 12(a)(1)(A)(i).

14 9. As of the date of this Declaration, Circle Society has not answered or moved  
15 against the Complaint.<sup>2</sup>

16 I declare under penalty of perjury that the foregoing is true and correct.  
17  
18 Executed on November 4, 2019.

19 By: /s/ Danielle E. Karst  
20 Danielle E. Karst  
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24

25 <sup>2</sup> The undersigned advised counsel for Circle Society via email on October 31, 2019, that  
26 Circle Society’s Answer was past due and that the CFTC would be filing this motion on this  
27 date. Counsel for Circle Society has not responded to the CFTC’s October 31, 2019 email as  
28 of the date of this filing.